

JPA File No.: 07-012-I
AG Contract No.: KR07-0442TRN
Project No.: YMP-0(200)A
Project: San Luis II Access
Road-Roundabout
Section: Avenue E & County 25th Street
TRACS No.: SS 652 03D
Budget Source Item No.: N/A

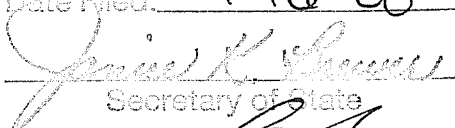
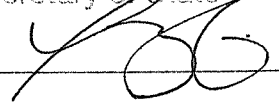
INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
YUMA COUNTY

THIS AGREEMENT is entered into this date January 16th 2008, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the COUNTY, acting by and through its COUNTY ADMINISTRATOR and BOARD OF SUPERVISORS (the "County"). The State and the County are collectively referred to as "Parties".

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.
2. The County is empowered by Arizona Revised Statutes § 11-251 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the County.
3. Congress has authorized appropriations for, the design and construction of a Roundabout, on the boarder of San Luis II Port of Entry, as part of Section 115, of the Transportation, Treasury and Independent Agencies Appropriations Act, 2004 (AZ025).
4. Such project lies within the boundary of the County and has been selected by the County; the survey of the project has been completed; and the plans, estimates and specifications will be prepared and, as required, submitted to the State and Federal Highway Administration (FHWA) for its approval.
5. The County, in order to obtain Federal funds for the design of the project, is willing to provide County funds to match Federal funds in the ratio required or as finally fixed and determined by the County and FHWA
6. The interest of the State for this project is in the acquisition of Federal funds for the use and benefit of the County and the State is the designated agent for the County. Funds expended for the project, are authorized by reason of Federal law and regulations.

NO. 29584
Filed with the Secretary of State
Date Filed: 1-16-08

Secretary of State
By: 

7. The work encompassed in this Agreement is the design of a Roundabout located at Avenue E and County 25th Street along San Luis II Port of Entry, hereinafter referred to as the "Project". The County will survey, design, and conduct the right-of-way acquisition of this Project.

SS 652 03D

| | |
|-----------------------------|--------------------|
| Federal Aid Funds @ 100% | \$80,000.00 |
| Total Estimated Design Cost | \$80,000.00 |

THEREFORE, in consideration of the mutual Agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall:

a. Submit a program to the Federal Highway Administration (FHWA) containing the above-mentioned Project with the recommendation that it be approved for *design funding*. The Project will be performed, completed, accepted and paid for in accordance with the requirements of the Transportation Treasury and Independent Agencies Appropriations Act, 2004 (AZ025), under Section 115. If such Project is approved the cost of the design work covered by this Agreement is to be borne by FHWA and County, each in the proportion prescribed or as fixed and determined by the State, the County and the FHWA as stipulated in this Agreement.

b. Enter into a Project Agreement with FHWA on behalf of the County covering the work encompassed in this Agreement and the State will request the maximum Federal funds available. Should costs exceed the maximum Federal funds available, it is understood and agreed that the County will be responsible for any overage.

c. As required by the FHWA, provide design review of the project plans, studies and related documents, and when appropriate provide comments which will be incorporated into the design documents.

d. Reimburse the County monthly with Federal funds for design work addressed under this Agreement at 100% of the project cost capped at \$80,000.00.

e. Should unforeseen conditions or circumstances increase the cost of said work such that a change in the extent or scope of the work called for in this Agreement become necessary, the State shall not be obligated to incur any expenditure in the project.

2. The County shall:

a. Upon execution of this Agreement designate the State as authorized agent for the County.

b. Be entirely responsible for all costs incurred in performing and accomplishing the work as set forth in this Agreement whether covered by Federal funding or not.

c. Provide any required preliminary engineering and planning studies, the environmental analysis and design of the project.

d. Agree that the cost of the analysis and design work covered by this Agreement is to be borne by FHWA and the County, each in the proportion prescribed and determined by FHWA.

e. Invoice the State monthly for Federal funds for design work addressed under this Agreement at 100% of the project costs capped at \$80,000.00.

f. All at County's expense perform certain work and prepare certain documents required by the FHWA to qualify certain highway, bridge and railroad grade crossing projects for and to receive Federal funds. Such work may consist of, but is not specifically limited to, the review and approval of the County prepared environmental documents, the preparation of the analysis requirements for documentation of environmental categorical exclusion determinations; review of reports, design plans, maps, and specifications; geologic materials testing and analysis; right-of-way related activities (when specifically authorized by, for and on behalf of the County, and at no cost to the State) and such other related tasks essential to the achievement of the objectives of this Agreement.

g. Should unforeseen conditions or circumstances increase the cost of said work such that a change in the extent or scope of the work called for in this Agreement become necessary, the County shall be obligated to incur and pay for said increased costs.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this Agreement. The County, in regard to the County's relationship with the State only, assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith, cost over-runs and claims. It is understood and agreed that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the County and that to the extent permitted by law, the County hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or nonperformance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees; and the County, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall be the County's responsibility in the event of any action, court costs, and expenses of litigation and attorneys' fees.

2. The cost of the design work covered by this Agreement is to be borne by FHWA and the County, each in the proportion prescribed or as fixed and determined by the FHWA as stipulated in this Agreement. Therefore, County agrees to furnish and provide the difference between the total cost of the work provided for in this Agreement and the amount of the Federal aid received.

3. The terms, conditions and provisions of this Agreement shall remain in force and effect until completion of said project and related deposits or reimbursement.

4. This Agreement shall be filed with the Arizona Secretary of State and shall not become effective until the date of said filing.

5. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

6. This Agreement is subject to all applicable provisions of the Americans with Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

7. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

8. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

9. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 616E
Phoenix, Arizona 85007
(602) 712-7525
(602) 712-7424 Fax

Yuma County
Attn: Frank Sanchez, P.E.
2351 W. 26th Street
Yuma County, Arizona 85364
Phone # 928 817-5000
Fax # 928 817-5109

10. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

YUMA COUNTY

STATE OF ARIZONA

Department of Transportation

By 
CASEY PROCHASKA
Chairman of the Board

By 
DALE BUSKIRK, DIVISION DIRECTOR
Transportation Planning Division

ATTEST:

By 
SUE STALLWORK
Clerk of the Board

G:07-012-Yuma County-San Luis II Access Rd
Roundabout SS652 03D
First Draft February 16, 2007-ly
Revised March 19, 2007-ly

OFFICE OF THE
BOARD OF SUPERVISORS
198 Main Street
Yuma, Arizona 85364

SUE STALLWORTH
ACTING COUNTY ADMINISTRATOR
CLERK OF THE BOARD



LENORE LORONA STUART
DISTRICT 1
RUSSELL McCLOUD
DISTRICT 2
CASEY PROCHASKA
DISTRICT 3
MARCO A. (TONY) REYES
DISTRICT 4
GREGORY S. (GREG) FERGUSON
DISTRICT 5

STATE OF ARIZONA)

ss.

COUNTY OF YUMA)

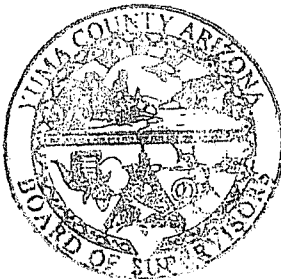
I, Christina P. Isbell, Deputy Clerk of the Board of Supervisors, do hereby certify that I am required by law to maintain custody of the minutes of the Yuma County Board of Supervisors, and that the following is a true and correct copy of the portion of the minutes of the Board of Supervisors' meeting held November 5, 2007, Item No. D18:

CONSENT CALENDAR

Supervisor Ferguson made a motion, seconded by Supervisor Stuart, to approve the Consent Calendar as presented. The motion carried.

The approved Consent items are:

No. 18: Development Services: Approve an Intergovernmental Agreement with the State of Arizona, Department of Transportation, for the Design and Construction of a Roundabout at the San Luis II Port of Entry.



In Witness Whereof, I have hereunto set my hand and affixed the Official Seal of the Board of Supervisors. Done at Yuma, the County Seat, this 18th day of December, 2007.

Christina P. Isbell
CHRISTINA P. ISBELL,
Deputy Clerk of the Board

APPROVAL TO FORM FOR YUMA COUNTY ATTORNEY

I have reviewed the above referenced proposed Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and YUMA COUNTY, an agreement among public agencies, which has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the County under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this agreement.


DATED this 3 day of October, 2007.

Jon Smith
Yuma County Attorney

By:

A handwritten signature in dark ink, appearing to read "E. P. Feheley", is written over a horizontal line.

Edward P. Feheley, Deputy County Attorney

| | | |
|---|--|--|
| <p>TERRY GODDARD Attorney General</p> | <p> OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA</p> | <p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan.Davis@azag.gov</p> |
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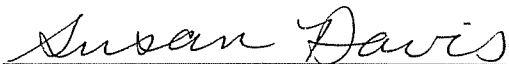
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR07-0442 (**JPA 07-012-I**), an Agreement between public agencies, i.e., The State of Arizona and Yuma County, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: January 7, 2008

TERRY GODDARD
Attorney General



SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:mjf:116155
Attachment